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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,120	03/17/2004	Brian D. Cunningham	MESS-001/00US 307102-2003	5291
58249	7590	11/24/2010	EXAMINER	
COOLEY LLP ATTN: Patent Group Suite 1100 777 - 6th Street, NW WASHINGTON, DC 20001			JAKOVAC, RYAN J	
			ART UNIT	PAPER NUMBER
			2445	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/803,120	<b>Applicant(s)</b> CUNNINGHAM, BRIAN D.	
	<b>Examiner</b> RYAN J. JAKOVAC	<b>Art Unit</b> 2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 31-51, 53-79 and 81-88 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-51, 53-79 and 81-88 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive (see Examiner Interview Summary Record of 11/08/2010) and, therefore, the finality of that action is withdrawn.
2. Applicant's amendment of 05/27/2010 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
3. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

***Response to Arguments***

4. Applicant's arguments with respect to claims 31-51, 53-79, and 81-88 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 31-36, 38-51, 53-54, 56-79, 81-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 20030220978 to Rhodes in view of US 20030149733 to Capiel.

Regarding claim 31-33, 36, 47-49, 53, 76, Rhodes teaches a method comprising:  
associating with an electronic message authorized by an originator identification data uniquely identifying said electronic message, (Rhodes, fig. 8, email message with originator key. See [0058-0059].);

storing said identification data (Rhodes, [0058-0059].);  
sending to an intended recipient said electronic message with said identification data (Rhodes, [0058-0059], fig. 8, message sent to recipient including originator key.);

receiving on behalf of the intended recipient a confirmation request including said identification data and requesting confirmation that the said electronic message was authorized by they originator (Rhodes, fig. 8, challenge message.);

comparing said identification data received in said confirmation request to said stored identification data (Rhodes, [0058-0059], fig. 8, “On the sender-side SVP, the parsed challenge message is examined to determine if it contains a known Originator Key at 811.”); and

upon determining that said identification data received in said confirmation request matches said stored identification data, responding to said confirmation request, affirming said electronic message was authorized by the originator (Rhodes, [0058-0059], response to challenge message. See also [0047-0053] and fig. 7.).

Rhodes does not expressly disclose the identification data distinguishing said electronic message from other electronic messages authorized by the originator.

However, Capiel discloses the identification data distinguishing said electronic message from other electronic messages authorized by the originator (Capiel, [0036], unique email code distinguishing messages.).

Therefore it would have been obvious to one of ordinary skill in the art to combine the identification data distinguishing said electronic message from other electronic messages authorized by the originator as taught by Capiel with the teachings of Rhodes in order uniquely identify e-mail messages (Capiel, [0036].).

Regarding the additional limitations of claim 76, “receiving from the sending device a second electronic message different from said first electronic message authorized by the originator, said second electronic message containing information identifying the originator; and sending the confirmation device a second confirmation request requesting confirmation that said second electronic message was authorized by the originator”, the combination of Rhodes and

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Capiel discloses these limitations as described above since these limitations amount to repeating the known method disclosed by Rhodes and Capiel as described above. For example, Rhodes and Capiel describe the method and it is understood that the process is repeated, for example, receiving a second message and sending a second confirmation request (See Rhodes, [0058-0059], fig. 8, Capiel, abstract, [0036].).

Regarding claim 34, 50-51, the combination of Rhodes and Capiel teaches the method of claim 31, wherein said identification data is included in a message header of said electronic message (Rhodes, fig. 4-6. ), and wherein said identification data is alphanumeric string (Rhodes, [0040-0041].).

Regarding claim 35, 46, 54, the combination of Rhodes and Capiel teaches the method of claim 31, wherein said sending includes attaching said identification data as an attachment to said electronic message (Rhodes, [0041], “The message body typically includes text, attachments, links, and the like that comprise the information the sender desires to convey to the recipient. In accordance with the present invention, senders who are using a sender verification protocol include an Originator Key value in the message body.”).

Regarding claim 38-43, 56-61, the combination of Rhodes and Capiel teaches the method of claim 31, wherein said receiving a confirmation request includes receiving said confirmation request via port-to-port communication (Rhodes, fig. 8. See also fig. 2-3.).

Regarding claim 44, 45, the combination of Rhodes and Capiel teaches the method of claim 31, wherein said comparing is performed at a device different from a device at which said associating is performed, wherein said comparing is performed at a device different from a device at which said sending is performed (Rhodes, fig. 7-8, [0047-0058].).

Regarding claim 63-68, 70-75, 77-79, 81-84, the combination of Rhodes and Capiel teaches the method of claim 62, wherein said receiving a confirmation request includes receiving said confirmation request via port-to-port communication, wherein said receiving a confirmation request includes receiving a confirming electronic message (Rhodes, fig. 8, [0047-0059]. See also fig. 2-3.).

Regarding claims 62, 69, the combination of Rhodes and Capiel teaches the method comprising: receiving a confirmation request to confirm that an electronic message sent to an intended recipient was authorized by an originator identified in the electronic message (Rhodes, fig. 8, [0058-0059], challenge message.), the confirmation request including identification data purporting to uniquely identify the electronic message (Rhodes, fig. 8, [0058-0059], challenge message with originator key.); searching a data store for said identification data (Rhodes, [0058-0059], fig. 8, sender side confirmation of key.); and upon determining that said data store contains said identification data, responding to said confirmation request, affirming the electronic message was authorized by the originator (Rhodes, [0058-0059], fig. 8, challenge response.).

Regarding claim 85, the combination of Rhodes and Capiel teaches the method of claim 31, wherein: the associating, storing and sending are at a sending module of a sending email system (Rhodes, fig. 2-3.); and the receiving, comparing and responding are at a confirmation module of the sending email system (Rhodes, fig. 2-3. See also fig. 8.).

Regarding claim 86-87, the combination of Rhodes and Capiel teaches the method of claim 62, wherein the receiving, searching and responding are at a confirmation module of a sending email system (Rhodes, fig. 2-3. See also fig. 8.).

Regarding claim 88, the combination of Rhodes and Capiel teaches the method of claim 76, wherein receiving the first electronic message, sending the first confirmation request, receiving the response affirming said first electronic message was authorized by the originator, allowing said first electronic message to be further processed, receiving the second electronic message, and sending the second confirmation request are at a receiving email system (Rhodes, fig. 2-3, receiving mail system. See also fig. 8, receiving mail system.).

7. Claims 37 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes in view of Capiel and further in view of WO 01/10090 to Tomkow.

Regarding claim 37, 55, the combination of Rhodes and Capiel teaches the method of claim 31, but does not expressly disclose calculating a checksum for said message text; and



including said checksum in said identification data and said second electronic message includes one of a text message, VoIP message, or instant message.

However, Tomkow discloses calculating a checksum for said message text; and including said checksum in said identification data and said second electronic message includes one of a text message, VoIP message, or instant message (Tomkow, pg. 4-5, digital signature is created using a hash function on the message.).

Therefore it would have been obvious to combine calculating a checksum for said message text; and including said checksum in said identification data and said second electronic message includes one of a text message, VoIP message, or instant message as taught by Tomkow with the teachings of the combination of Rhodes and Capiel in order to utilize an encrypted message digest for message authentication (Tomkow [0018].).

### ***Conclusion***

**8. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN J. JAKOVAC whose telephone number is (571)270-5003. The examiner can normally be reached on Monday through Friday, 7:30 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Phillips can be reached on 571-272-3940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ryan Jakovac/

/HASSAN PHILLIPS/

Primary Examiner, Art Unit 2445